

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Thomas M. Hinkle, Administrator of the Estate of Mary Anne Hinkle, deceased, and Thomas M. Hinkle, in his own right

(b) County of Residence of First Listed Delaware

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Law Office of Robert E. Slota, Robert E. Slota, Jr., 801 Old Lancaster Road, Bryn Mawr, PA 19010 610-525-0300

DEFENDANTS

Assurant, Inc. One Chase Manhattan Plaza, New York, NY 10005
See attached list.

County of Residence of First Listed Defendant New York

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. 1132(a)(1)(B)

Brief description of cause:

Denial of insurance benefits under ERISA plan

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 96,000 +

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

8/26/08

SIGNATURE OF ATTORNEY OF RECORD

Robert E. Slota

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ADDITIONAL DEFENDANTS
HINKLE V. ASSURANT, INC., ET AL

ASSURANT EMPLOYEE BENEFITS

2323 Grand Boulevard
Kansas City, MO 64108-2670, and

UNION SECURITY INSURANCE COMPANY

2323 Grand Boulevard
Kansas City, MO 64108-2670

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THOMAS M. HINKLE, Administrator of the	:	
Estate of MARY ANNE HINKLE, deceased, and	:	
THOMAS M. HINKLE in his own right	:	
205 E. Township Line Road	:	CIVIL ACTION
Upper Darby, PA 19082	:	
plaintiff,	:	NO.
	:	
v.	:	
ASSURANT, INC.	:	
One Chase Manhattan Plaza	:	
New York, NY 10005, and	:	
	:	
ASSURANT EMPLOYEE BENEFITS	:	
2323 Grand Boulevard	:	
Kansas City, MO 64108-2670, and	:	
	:	
UNION SECURITY INSURANCE COMPANY	:	
2323 Grand Boulevard	:	
Kansas City, MO 64108-2670	:	
defendants.	:	
<hr style="width: 50%; margin-left: 0;"/>		
	:	

CIVIL ACTION COMPLAINT

1. Plaintiff, Thomas M. Hinkle, brings this action under a federal statute, 29 U.S.C. 1132 (a)(1)(B) to recover benefits due him as a beneficiary under the terms of an accidental death insurance policy, falling within the ambit of the Employee Retirement Income Security Act of 1974 ("ERISA") 29 U.S.C. 1001 et seq.
2. This court has jurisdiction pursuant to 29 U.S.C. 1132 (e)(1).
3. Plaintiff, Thomas M. Hinkle is an adult individual who resides at 205 E. Township Line Road, Upper Darby, PA 19082. Thomas M. Hinkle is also the duly appointed Executor of the Estate of Mary A. Hinkle, such appointment having been made by the Register of Wills of Delaware County.

4. Defendant, Assurant , Inc. is a corporation with a principal place of business at One Chase Manhattan Plaza, New York, New York, 10005, which sells and administers group life and accidental death insurance policies to employers for the benefit of employees.

5. Defendant, Assurant Employee Benefits, is either a corporation, or is a division of defendant, Assurant Inc., with a principal place of business at 2323 Grand Boulevard, Kansas City, Missouri, 64108-2607, which sells and administers group life and accidental death insurance policies to employers for the benefit of employees.

6. Defendant, Union Security Insurance Company, is an insurance company, a corporation, with a principal place of business at 2323 Grand Boulevard, Kansas City, Missouri, 64108-2607, which underwrites and/or provides group life and accidental death insurance policies, sold and administered by Assurant, Inc. and/or by Assurant Employee Benefits.

7. Defendants issued an insurance policy which insured the life of Mary Ann Hinkle and which provided for benefits upon the death of Mary Ann Hinkle to be paid to Thomas M. Hinkle.

8. On or about July 1, 2005, Mary Ann Hinkle was a full time secretary employed by the Lower Merion School District, Lower Merion Township, Montgomery County, Pennsylvania, and was covered by a Group Term Life Insurance and Group Accidental Death and Dismemberment Insurance policy issued to the Pennsylvania School Boards Association Insurance Trust. A true and correct copy of said insurance policy is attached hereto and marked Exhibit A.

9. Under the terms of the policy, defendants were obligated to pay a benefit of \$96,054.14 to Plaintiff, Thomas M. Hinkle, beneficiary under the policy, for the accidental death

of Mary Ann Hinkle, whose death was “the direct result of an injury,” as the coverage is described in the policy.

10. On November 16, 2006, Mary Ann Hinkle was admitted to Lankenau Hospital, Wynnewood, Pennsylvania, where she underwent a planned laparoscopic left radical nephrectomy for removal of a mass suspicious for malignancy.

11. Mary Ann Hinkle died on November 18, 2006, as a direct result of an injury negligently inflicted by her surgeon Michael Hagg, M.D., when, during the attempted laparoscopic nephrectomy, he transected her superior mesenteric artery, depriving her bowel and other abdominal organs of their blood supply, an irreparable and fatal injury.

12. An examination of the mass, which prompted the surgery, showed that there was no malignancy, and that Mary Ann Hinkle did not have cancer.


13. Mary Ann Hinkle’s death was not caused “directly or indirectly by any physical disease,” and thus was not within any exclusionary clause of the insurance policy.

14. Defendants have unjustly, improperly, and without any reasonable cause, refused to pay any amount for the accidental death of Mary Ann Hinkle, even though her death was accidental and therefore clearly covered by the terms of the accidental death provisions of the insurance policy, thus violating their obligations under the policy and the ERISA employee benefit plan.

15. Plaintiff has exhausted administrative remedies, as evidenced by a true and correct copy of a letter from Assurant Employee Benefits to plaintiff’s counsel, attached hereto as marked Exhibit B.

Wherefore, plaintiff demands judgment against defendants for the sum of \$96,054.14, with prejudgment and post judgment interest and costs, and attorney's fees in an amount to be determined by the Court.

DATED: 8/26/08

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ROBERT E. SLOTA, JR., ESQUIRE
Pa. Atty. #50885
LAW OFFICES OF ROBERT E. SLOTA
801 Old Lancaster Road
Bryn Mawr, PA 19010
(P) (610) 525-0300
(F) (610) 525-9678
rslotajr@slotalaw.com
Attorneys for Plaintiffs